

Do our regulators have a double standard on Macau?

All men are created equal but some companies are created more equal than others. With apologies to Thomas Jefferson and George Orwell, we all know that's probably true but still hope that it isn't.

Last week we got a demonstration that ran counter to our hopes. MGM Mirage demonstrated its clout last week at the Gaming Control Board by winning the regulators' unanimous decision to give Pansy Ho the Good Housekeeping Seal of Approval as a suitable partner for its Macau operations.

Letting the gaming giant have its way makes some kind of business sense. MGM is a big boy in the scheme of corporate things and it, just as much as Las Vegas Sands and Wynn Resorts, has the right to invest in Macau if it thinks it's a sound business environment. It knows the lack of transparency and veto power the Chinese government holds over any of its operations. Still the company's approach smacks of daring the board to veto the deal. Just look at the body language.

A few months ago, MGM organized a super-compliance committee on its board. Headed by a Harvard expert, the company can now say it has gone the extra mile to make sure that its own self-discipline is tougher than anything Grant Sawyer (or Sarbanes and Oxley, for that matter) could have dreamed up.

A few weeks ago, it announced that successful discussions with the Macau authorities had gone well enough to announce a second casino. The company promptly announced that it was going ahead with its partner, Pansy Ho, on the new project.

These hardly seem like the actions of a company that was worried about putting it on a short leash in Macau. It looks much more like MGM Mirage was saying, „We double-dare you

regulators to cross us.“

Maybe those things were just the company's way of telling the board that it was sick of waiting for the two-year-plus investigation of Ho to come to an end and that it had better get its act together pretty darn fast. Maybe.

The other actions to watch are the hearings themselves. In one way, they seem to take evidence and act like a fact-finding body – even a court of law.

In a legal proceeding, though, the prosecution would present its case and the defense would get the chance to rebut it. The evidence is thoroughly tested in that kind of hearing.

Not so with gaming regulators. All the evidence is gathered before the hearing and much of the hard negotiating has been done before the actual meeting. Control Board and Nevada Gaming Commission meetings look ever more like rubber stamps for decisions that have already been made behind closed doors.

And those decisions are made on evidence that is never revealed. We have to take it on trust that gaming regulators have gathered all the evidence and judged it fairly.

This is where it would be easy to make that joke about „We're from the government and we're here to help.“ Trouble is, the regulators' motto seems to be: „We're from the government and we're here to do everything we possibly can to help the industry, especially its biggest players.“

MGM Chairman Terry Lanni played to that sentiment last Tuesday when he told the board: „MGM Macau is critical to the success of MGM Mirage.“

The company's general counsel, Gary Jacobs, was even more direct: „MGM's Nevada operations would be significantly disadvantaged if our competitors were in that market and MGM Mirage was not,“ he told the board.

That's nice, but the regulators business' is keeping the industry clean, not ensuring the success of MGM Mirage's foreign investments.

Back in the 1970s, people asked the question, was Chrysler too big to fail? They meant that the bankruptcy of one of the Big Three was too horrible an economic catastrophe to contemplate and the government would have to come to the rescue. It did so, even though no one would have thought twice about lending public money to a corner garage that couldn't repair cars.

Of course, Chrysler got Lee Iacocca and huge government loans. Until the last few years, it counted as a great success story.

Now, though, we've got to ask is MGM too big to be regulated? Is MGM so powerful that Nevada regulators cannot apply the same rules to that company that they would to a 20,000-square-foot grind joint in Elko?

The facts remain, and many were admitted at the hearing, that MGM's partner got her subconcession, the ticket to the dance in Macau, from her father. She also got much of her wealth from him and now operates businesses that were once his.

Nor did Tuesday's process do anything to resolve allegations of stock manipulation and fraud made by Pansy's Aunt Winnie. There may be nothing to these allegations but we should be entitled to more than gaming regulators assurance that they've checked.

The original idea of gaming regulation was that licensees had to prove they were clean. Last week, the board decided foreign partners would be suitable if the board couldn't prove any allegations beyond a reasonable doubt and if the Nevada company had safeguards in its agreements in case some of the allegations were true.

MGM, indeed, seems to be more equal.